

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE

LOVIE D. GRANT

v.

JOYCE FULTZ, et al.

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NO. 3:23-cv-00063

**TO: Honorable Eli J. Richardson, United States District Judge**

**REPORT AND RECOMMENDATION**

Plaintiff Lovie D. Grant (“Plaintiff”), a Tennessee resident, filed this *pro se* lawsuit on January 23, 2023, bringing claims under the Fair Debt Collection Practices Act and state law against Joyce Fultz, J. Phillip Jones, J. Phillip Jones Law Firm, Stewart Title Company, and Tish C. Baldwin. *See* Petition for Declaratory Judgment (Docket Entry No. 1). Because Plaintiff paid the full civil filing fee, there was no screening of the petition and the case was referred to the Magistrate Judge for pretrial proceedings. *See* Order entered February 14, 2023 (Docket Entry No. 10).

Plaintiff was advised in the referral order that she is responsible for effecting service of process on Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure, and she was directed to resources for *pro se* litigants. (Docket Entry No. 10 at 1-2.) Plaintiff was further advised that failure to timely complete service of process could result in the dismissal of this lawsuit under Rule 4(m). (*Id.*)

By Order entered June 6, 2023 (Docket Entry No. 15), the Clerk denied Plaintiff’s demand for judgment, which was construed as a request for the entry of default judgment. As

correctly noted by the Clerk, Plaintiff has not taken steps to have summonses issued in the case and Defendants have not been served with process.

Rule 4(c)(1) states that “[t]he plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m).” Rule 4(m) provides that:

If a defendant is not served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

Because Plaintiff has not served Defendants within the time period required by Rule 4(m), this action should be dismissed. The Court notes that Plaintiff was specifically advised that this action would be dismissed if process was not timely served on Defendants. Although Plaintiff is proceeding *pro se*, she must still comply with the basic procedural rules applicable to all litigants. *See Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991); *Aug. v. Caruso*, 2015 WL 1299888, \*6 (E.D. Mich. Mar. 23, 2015) (“*Pro se* parties must follow the same rules of procedure that govern other litigants.”). Further, this case cannot proceed in the absence of service of process upon Defendants.

### **RECOMMENDATION<sup>1</sup>**

For the reasons set out above, it is respectfully RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE in accordance with Rule 4(m) of the Federal Rules of Civil Procedure.

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<sup>1</sup> Plaintiff was, as discussed above, previously put on notice that failure to timely effect service of process could result in dismissal of this case. This Report and Recommendation provides additional notice to Plaintiff of the Court’s intention to dismiss the action, and the fourteen-day period for filing objections provides her with the opportunity to show good cause why the action should not be dismissed.

ANY OBJECTIONS to this Report and Recommendation must be filed within fourteen (14) days of service of this Report and Recommendation and must state with particularity the specific portions of this Report and Recommendation to which objection is made. *See* Rule 72(b)(2) of the Federal Rules of Civil Procedure and Local Rule 72.02(a). Failure to file written objections within the specified time can be deemed a waiver of the right to appeal the District Court's Order regarding the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Any response to the objections must be filed within fourteen (14) days after service of objections. *See* Federal Rule 72(b)(2) and Local Rule 72.02(b).

Respectfully submitted,

  
BARBARA D. HOLMES  
United States Magistrate Judge